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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 MANUEL RAMIREZ,) CASE NO. C08-0492-RSM
09)
09 Petitioner,)
10)
10 v.) REPORT AND RECOMMENDATION
11)
11 WASHINGTON STATE)
12 DEPARTMENT OF CORRECTIONS,)
13 Respondent.)
_____)

14 Petitioner is a state prisoner who is currently incarcerated at the Washington Corrections
15 Center in Shelton, Washington. He has submitted to this Court for review a petition for writ of
16 habeas corpus under 28 U.S.C. § 2241. He appears to allege in his petition that he was not
17 awarded appropriate credit for time served, and that his right to represent himself and his right to
18 a speedy trial were violated during criminal proceedings before the King County Superior Court.

19 The Ninth Circuit has made clear that § 2254 is the exclusive avenue for a state prisoner
20 to challenge the constitutionality of his detention when the prisoner is in custody pursuant to a
21 state court judgment *White v. Lambert*, 370 F.3d 1002, 1007 (9th Cir. 2004). Because petitioner
22 alleges in his petition that his constitutional rights were violated during state court criminal

01 proceedings which apparently resulted in his current incarceration in the Washington Department
02 of Corrections, his petition must be construed as one brought pursuant to § 2254. And because
03 it appears from the face of the petition that petitioner has not yet exhausted any of his federal
04 habeas claims in the state courts, his claims are not eligible for review in this federal habeas
05 proceeding. *See Rose v. Lundy*, 455 U.S. 509 (1982); 28 U.S.C. §2254(b), (c). Accordingly, this
06 Court recommends that petitioner's federal habeas petition be dismissed without prejudice. This
07 Court further recommends that petitioner's application to proceed *in forma pauperis* be denied
08 as moot. A proposed order accompanies this Report and Recommendation.

09 DATED this 17th day of April, 2008.

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12 Mary Alice Theiler
13 United States Magistrate Judge
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